

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SIMON V. CAZARES,

Plaintiff,

v.

JAMIE L. HARMON, et al.,

Defendant.

No. C 05-2635 MMC (PR)

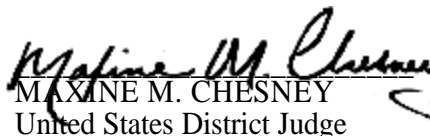
ORDER OF DISMISSAL**(Docket No. 2)**

Plaintiff, a California prisoner proceeding pro se, filed the above-titled civil rights action pursuant to 42 U.S.C. § 1983 against the attorneys who represented him in criminal proceedings in state court. The claims in the complaint are identical to the allegations in a previous complaint filed by plaintiff, which complaint was dismissed for failure to state a cognizable claim for relief. See Cazares v. Harmon, et al., No. C 05-1349 MMC (PR). A complaint that merely repeats pending or previously litigated claims is frivolous and may be dismissed sua sponte. See Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988). As the claims in plaintiff's complaint are duplicative of the claims raised and dismissed in plaintiff's earlier case, the above-titled action is hereby DISMISSED as duplicative. In light of this dismissal, the application to proceed in forma pauperis is DENIED, and no fee is due.

The Clerk shall close the file and terminate Docket No. 2.

IT IS SO ORDERED.

DATED: October 17, 2005


MAXINE M. CHESNEY
United States District Judge